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ENVIRONMENTAL PROTECTION AGENCY

■

DAIRY PRODUCTS PROCESSING INDUSTRY POINT SOURCE CATEGORY

Effluent Limitation Guidelines and Pretreatment Standards Application

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 405—EFFLUENT LIMITATIONS GUIDELINES FOR STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE DAIRY PRODUCTS PROCESSING INDUSTRY POINT SOURCE CATEGORY

On December 20, 1973, notice was published in the FEDERAL REGISTER (38 FR 35250), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the receiving stations, the fluid products, the cultured products, the butter, the cottage cheese and cultured cream cheese, the natural and processed cheese, the fluid mix for ice cream and other frozen desserts, the ice cream, frozen desserts, novelties and other dairy desserts, the condensed milk, the dry milk, the condensed whey and the dry whey subcategories of the dairy products processing industry category of point sources.

The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the dairy products processing industry category of point sources, by amending 40 CFR Chapter I, Subchapter N, to add a new Part 405. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92–500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the dairy products processing industry category. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Dairy Products Processing Point Source Category" (January 1974) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, for the Dairy Processing Industry" (November 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows.

(a) *Summary of comments.* The following responded to the request for written comments contained in the preamble to the proposed regulation: the U.S. Department of Health, Education and Welfare; U.S. Department of the Interior; U.S. Department of Commerce; U.S. Department of Agriculture; State of New York Department of Environmental Conservation; State of Wisconsin Department of Natural Resources; Dairylea Cooperative Inc.; Kraftco Corporation; Land O'Lakes, Inc.; Foremost Foods Company; Mid-America Dairymen, Inc.; North Carolina Dairy Products Association, Inc.; National Milk Producers Federation; and the Dairy Industry Committee.

Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and the Agency's response to those comments.

(1) The comment was made that proposed guidelines are only partially responsive to the goals and objectives of the Act in that they will serve to control the gross organic pollutant load but they will not contribute to the elimination of more insidious pollutants such as pesticides and drugs that have been proven toxic to both terrestrial and aquatic biota. Specifically, reference is made to the Development Document noting the use of santizers in the dairy products industry and the relatively low chloride levels in the wastes. Documentation in support of the comment refers to toxicity of power plant chemicals, ecological effects of pesticides on non-target species, and the effects of salinity and salinity changes on life in coastal waters.

During the course of the supportive study for the guidelines, extensive data were compiled on the use of cleaners and sanitizers in dairy products processing. Re-examination of these data support the position that the concentrations of such materials in the raw waste loads are very low, and these levels will be reduced moderately through entrainment in the sludge removed during biological treatment. Further, highly successful operation of biological treatment by plants typifying sanitation practices within the industry indicates that the subject materials are below significant levels even without dilution afforded by receiving waters. The added complexity of establishing limits and monitoring for cleaners and sanitizers does not appear justifiable.

(2) Several commenters questioned the adequacy of the data base for both the economic impact evaluation and the technical development of the guidelines. No additional or alternative sources of data were indicated, however.

The data base represents the best available from Federal, State and local agencies historically closely associated with the industry and from the industry itself, supplemented by data generated by on-site studies by EPA's contractors. The Agency considers the data bases adequate for the determination of appropriate effluent limitations and the evaluation of their economic impact.

(3) The comment was made that the economic impact of the guidelines, as reflected by the projected plant closures, is unacceptably high, and severe as it is expected to be, is undoubtedly understated.

In reality, the economic impact of the guidelines should be less severe than that projected in the supplementary economic analysis, since all factors were incorporated in the most conservative (i.e., unfavorable) light. A number of ameliorating factors were recognized, such as limited or local custom markets, but no weight was given to the reduction of plant closures attributable to the existence of such markets. The indicated ability of plants to meet the costs of pollution control was reduced to the minimum by inclusion of depreciation based on current replacement costs. This is especially notable for those classes of plants for which most closures are projected, i.e., small old plants which under typical practices should be completely depreciated at present. Moreover, many of the projected closures (approximately 79 percent) do not represent closures truly attributable to the guidelines, but rather acceleration of 1977–83 baseline closures (plant closures expected as the result of other market forces). The effluent guidelines, however, have been modified to reduce the economic impact on those segments of the industry that were projected to experience large numbers of closures.

(4) Several commenters suggested that the guidelines require further subcategorization based on size (because of unequal economic impact associated with size) and final product (e.g., swiss cheese vs. cheddar cheese).

The impact of the guidelines in regard to various sizes of plants is one of economics of size, as related to both profitability and treatment costs per unit of production, and is not related to technical feasibility. The guidelines have been amended to significantly reduce their economic impact (projected plant closures are reduced from 573 to 102, for example) by providing for a lesser degree of pollutant elimination for small plants that is readily attainable at greatly reduced treatment costs. Further reduction of the economic impact would require discharge of raw waste by some segments of the industry, a result inconsistent with Pub. L. 92–500. Examination of all avail-

able information, which includes data from plants producing more than a dozen varieties of natural and processed cheeses (the subcategory cited as an example), does not justify further subcategorization based on very specific final products.

(5) The comment was made that the proposed regulation does not adequately identify the level of best practicable control technology currently available. Section 304 Pub. L. 92–500 requires that EPA "identify * * * the degree of effluent reduction attainable through the application of best practicable control technology current available * * *". It is thus implied that for each industry subcategory, one level of treatment must be identified as best practicable control technology currently available. Additionally, in-plant changes were employed with the best practicable control technology, and the intent of Congress is for 1977 guidelines to be based upon end-of-pipe technology, not in-plant changes.

First, the in-plant considerations are not of the type and magnitude that would constitute "process and procedure innovations", but are based on good housekeeping and management (e.g., automatic shut-off valves, drain screens, liquid level controls and drip shields) as practiced by the better operations within the industry. Therefore, best practicable control technology currently available for this industry shall mean existing good water and waste water management within the plant followed by efficient biological treatment of the process waste waters. The guidelines limitations indicate the degree of effluent reduction currently attained by the combination of good water and waste water management within the plant and efficient end-of-pipe biological treatment. That they are indicative of the best practicable control technology currently available is supported by the fact that they represent the current effluent control attained by approximately the best quartile of the operations on which information is available. Alternative technologies to achieve the effluent limitations are presented in the Development Document together with associated investment and operating costs.

(6) The reasonableness of the 1983 limitations, particularly from the standpoint of costs, was questioned.

The 1983 limitations are currently attained by a more limited number of plants within the industry. Approaches vary from highly sophisticated in-plant control followed by typical efficient biological treatment to typically good in-plant control combined with typical efficient biological treatment and a polishing pond, sand filter, or other relatively low cost polishing operation. Several plants with exemplary practices throughout the chain (in-plant and end-of-pipe) are now attaining effluent discharges of better quality than those required by the guidelines limitations.

(7) Several comments were made questioning the need for any pretreatment of dairy wastes, much less the stringent pretreatment requirements proposed for new sources.

Neither the pretreatment standards promulgated for new sources nor the proposed pretreatment standards for existing sources are stringent. Under both standards, the wastes from most dairy products processing are considered compatible with public treatment systems and may be discharged without pretreatment, subject to the general provisions of 40 CFR Part 128 and State or local regulations.

(8) The comment was made that the guidelines do not indicate they are preliminary and subject to modification. The commenter expressed apprehension that State and regional personnel unfamiliar with the guidelines could impose more restrictive local requirements.

Though they have not been formally incorporated in guidelines documents, the provisions for review and revision contained in Pub. L. 92–500 are, of course, applicable to the guidelines. While provisions have been included in the guidelines for less restrictive permit limitations when fully justified, the guidelines constitute national minimum requirements and there is no intent within either Pub. L 92–500 or the guidelines to abridge the right of State or local authorities to impose more restrictive requirements.

(9) Several comments were made that the proposed guidelines required a higher degree of treatment for the dairy industry than the requirements for secondary treatment applicable to municipalities in regard to BOD5 and suspended solids. These commenters suggested that the requirements for the two should be identical.

The guidelines as promulgated require discharge of an effluent of essentially the same quality as that attained by municipalities applying secondary treatment. This does require greater efficiency in terms of present waste reduction on the part of industry, but such reductions have been shown to be practicable.

(10) The comment was made that the receiving stations subcategory should include whey to accommodate the portion of raw waste load attributable to the receipt of whey in processing plants.

Allowances for raw waste contributions from receiving departments in dairy products plants have been included in the calculation of effluent limitations established for the various subcategories.

(11) The comment was made that there are many processes, such as lactose fractionation, lactose refining and lactose fermentation which have not been mentioned in the guidelines and for which no waste discharge allowance has been made.

The processes mentioned are not typical dairy products processes and are more appropriately considered in limitations for industry categories such as pharmaceuticals and miscellaneous foods.

(12) The comment was made that barometric condensers should be taken into account in the guidelines for those subcategories in which they are normally employed, and that treatment of such condensers should be clarified in the final Development Document. The economic impact of the position taken should be considered.

The regulation of discharges from barometric condensers is more fully covered in the support documents. The guidelines have been amended to permit once-through use of barometric condenser water without treatment for those segments in which installations of cooling towers might impose undue economic hardship.

(b) *Revision of the proposed regulation prior to promulgation.* (1) To lessen the economic impact of the regulation, separate sets of limitations, reflecting a slightly reduced level of pollutant removal that is attainable at considerably lower cost, have been established for small plants in each subcategory.

(2) Provision has been made for once-through use of barometric condenser water under conditions of controlled trainment for small plants in the condensed milk and condensed whey subcategories to reduce the economic impact on plants in these segments.

(3) The limitations applicable to larger plants in all subcategories have been modified to reflect a more uniform discharge quality among the subcategories. In general, this has resulted in less than a ten percent change from the values contained in the proposed regulations.

(4) Subsequent review has affirmed the somewhat abnormal settling characteristics associated with suspended solids in biological treatment systems handling dairy products wastes. Consequently, the limitations for total suspended solids now reflect a level of discharge slightly higher than those for biochemical oxygen demand.

(5) The language of the proposed pretreatment requirements for new sources has been modified to indicate clearly the general compatibility of dairy products wastes with publicly-owned treatment systems, subject to the general provisions of 40 CFR 128 and State and local regulations.

(6) Section 304(b)(3)(B) of the Act provides for "guidelines" to implement the uniform national standards of section 301(b)(1)(A). Thus, Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control, a provision allowing flexibility in the strict application of the limitations representing best practicable control technology currently available has been added to each subpart to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(7) The proposed division of receiving stations into those receiving milk in cans and those receiving milk in bulk has been deleted. Under the division by size range contained in the final regulation the division based on mode of receipt of milk is no longer valid. Those receiving stations

receiving any appreciable portion of their milk in cans will fall within the lower size range segment of the subcategory, and the less stringent limitations applicable to this segment will readily accommodate the variation attributable to receipt of milk in cans.

(c) *Economic impact.* The investment costs for 1977, based on recommended technology for the various segments of the industry, range between 5 and 25 percent of current fixed investment depending on the type of product and size of plant. Annual costs for the 1977 standards vary from 0.2 to 1.5 percent of sales. For 1983 it is assumed that the standards will be met through improved treatment involving low-cost polishing operations (e.g., sand filtration) or through improved in-plant control and utilization of 1977 treatment facilities. Incremental capital investments and annual costs for additions to treatment facilities required to meet the 1983 limitations will be less than half those for 1977. Depending on their specific nature, the costs of inplant control would be very variable, but much of the investment would be returned by value of materials recovered through improved control.

These costs do not appear seriously to threaten the long-term production or viability of the industry. The 1977 standards should result in price increases of from zero to 1.1 percent at the wholesale level. It is estimated that approximately 102 plant closures could result in 1977 due to the guidelines. These plants, representing only 0.2 percent of current industry production and about 850 employees (or 0.3 percent of total employment in the industry), are of questionable viability in light of the historical trend for closure of the small, old, relatively inefficient marginal plants within the dairy products processing industry. The plant closures tentatively attributed to impact of the guidelines represent in the main an acceleration of 1977–83 baseline closures which would occur even without imposition of guidelines. It is also estimated that the number of communities affected will approximate the number of plant closures. The impact of the 1983 guidelines is much less, approximately zero to 0.5 percent price increase at the wholesale level and no additional plant closures. Neither the 1977 nor the 1983 standards are expected to have any noticeable effects on the industry's growth or the Nation's balance of trade.

(d) *Cost-benefit analysis.* The detrimental effects of the constituents of waste waters now discharged by point sources within the dairy products processing industry point source category are discussed in Section VI of the report entitled "Development Document for Effluent Limitations Guidelines Dairy Products Processing Industry Point Source Category". It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in Section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in Section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines DAIRY PROCESSING INDUSTRY" (November 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the dairy products processing industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of section 304(c) of the Act, a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Dairy Products Processing Industry Point Source Category," is being published and will be available for purchase from the Government Printing Office, Washington, D.C. 20402 for a nominal fee.

(f) *Final rulemaking.* In consideration of the foregoing, 40 CFR Ch. I, Subchapter N is hereby amended by adding a new Part 405, Dairy Products Processing Industry Point Source Category, to read as set forth below. An order of the Federal District Court for the District of Columbia entered in "NRDC v. Train" (Civ. No. 1609–73) on November 27, 1973, required that the Administrator sign final effluent limitations guidelines for this industry category by March 22, 1974. That order was subsequently modified on March 14, 1974, and the date for signing extended until April 22, 1974. Thereafter, on March 15, 1974, the District Court ordered that the effective date for effluent limitations guidelines established by its November 27 order remain applicable and not be affected by the extension in the publication date. The effective date for effluent limitations guidelines for this industry established by the Court's November 27 order is May 19, 1974. Accordingly, good cause is found for the final regulation promulgated as set forth below to be effective on May 28, 1974.

Dated: May 15, 1974.

JOHN QUARLES,
Acting Administrator.

Subpart A—Receiving Stations Subcategory

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405.11 Specialized definitions.
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405.124 [Reserved]
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AUTHORITY: Secs. 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816, et seq.; Pub. L. 92-500.

Subpart A—Receiving Stations Subcategory

§ 405.10 Applicability; description of the receiving stations subcategory.

The provisions of this subpart are applicable to discharges resulting from the operation of receiving stations engaged in the assembly and reshipment of bulk milk for the use of manufacturing or processing plants.

§ 405.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guide-

lines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent that the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For receiving stations receiving more than 150,000 lb/day of milk equivalent (15,600 lb/day or more of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.475	0.190
TSS	.713	.285
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.048	0.019
TSS	.071	.029
pH	Within the range 6.0 to 9.0.	

(b) For receiving stations receiving 150,000 lb/day or less of milk equivalent (under 15,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.625	0.313
TSS	.938	.469
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.063	0.031
TSS	.094	.047
pH	Within the range 6.0 to 9.0.	

§ 405.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For receiving stations receiving more than 150,000 lb/day of milk equivalent (15,600 lb/day or more of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.100	0.050
TSS	.126	.063
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.010	0.005
TSS	.013	.006
pH	Within the range 6.0 to 9.0.	

(b) For receiving stations receiving 150,000 lb/day or less of milk equivalent (under 15,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.150	0.075
TSS	.188	.094
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.015	0.008
TSS	.019	.009
pH	Within the range 6.0 to 9.0.	

§ 405.14 [Reserved]

§ 405.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.100	0.050
TSS	.126	.063
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.010	0.005
TSS	.013	.006
pH	Within the range 6.0 to 9.0.	

§ 405.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the receiving stations subcategory which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart B—Fluid Products Subcategory

§ 405.20 Applicability; description of the fluid products subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of market milk (ranging from 3.5 percent fat to fat-free), flavored milk (chocolate and others) and cream (of various fat concentrations, plain and whipped).

§ 405.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those speci-

fied in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) For fluid products plants receiving more than 250,000 lb/day of milk equivalent (more than 25,900 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	3.375	1.350
TSS	5.506	2.025
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.338	0.135
TSS	.551	.203
pH	Within the range 6.0 to 9.0.	

(b) For fluid products plants receiving 250,000 lb/day or less of milk equivalent (less than 25,900 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	4.50	2.250
TSS	6.750	3.375
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.450	0.225
TSS	.675	.338
pH	Within the range 6.0 to 9.0.	

§ 405.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) For fluid products plants receiving more than 250,000 lb/day of milk equivalent (more than 25,900 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.740	0.370
TSS	.925	.463
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.074	0.037
TSS	.093	.046
pH	Within the range 6.0 to 9.0.	

(b) For fluid products plants receiving 250,000 lb/day or less of milk equivalent (less than 25,900 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.10	0.550
TSS	1.375	.688
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.110	0.055
TSS	.138	.069
pH	Within the range 6.0 to 9.0.	

§ 405.24 [Reserved]

§ 405.25 Standards of performance for new sources.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.740	0.370
TSS	.925	.463
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.074	0.037
TSS	.093	.046
pH	Within the range 6.0 to 9.0.	

§ 405.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the fluid products subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart C—Cultured Products Subcategory

§ 405.30 Applicability; description of the cultured products subcategory.

The provisions of this subpart are applicable discharges resulting from the manufacture of cultured products, including cultured skim milk (cultured buttermilk), yoghurt, sour cream and dips of various types.

§ 405.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing process products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fun-

damentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For cultured products plants receiving more than 60,000 lb/day of milk equivalent (more than 6,200 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	3.375	1.350
TSS	5.063	2.025
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.338	0.135
TSS	.506	.203
pH	Within the range 6.0 to 9.0.	

(b) For cultured products plants receiving 60,000 lb/day or less of milk equivalent (less than 6,200 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	4.50	2.250
TSS	6.750	3.375
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.450	0.225
TSS	.675	.338
pH	Within the range 6.0 to 9.0.	

§ 405.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For cultured products plants receiving more than 60,000 lb/day of milk equivalent (more than 6,200 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.740	0.370
TSS	.926	.463
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.074	0.037
TSS	.093	.046
pH	Within the range 6.0 to 9.0.	

(b) For cultured products plants receiving 60,000 lb/day or less of milk equivalent (less than 6,200 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.10	0.550
TSS	1.375	.688
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.110	0.055
TSS	.138	.069
pH	Within the range 6.0 to 9.0.	

§ 405.34 [Reserved]

§ 405.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.740	0.370
TSS	.926	.463
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.074	0.037
TSS	.093	.046
pH	Within the range 6.0 to 9.0.	

§ 405.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the cultured products subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth, in part 128 of this chapter except for § 128.133 of this chapter. Subject to the proisions of part 128 of this chapter process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart D—Butter Subcategory

§ 405.40 Applicability; description of the butter subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of butter, either by churning or continuous process.

§ 405.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the

discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants processing more than 175,000 lb/day of milk equivalent (more than 18,180 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.375	0.550
TSS	2.063	.825
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.138	0.055
TSS	.206	.083
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 175,000 lb/day or less of milk equivalent (less than 18,180 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.825	0.913
TSS	2.738	1.369
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.183	0.091
TSS	.274	.137
pH	Within the range 6.0 to 9.0.	

§ 405.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants processing more than 175,000 lb/day of milk equivalent (more than 18,180 lb/day of BOD5 input.)

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.160	0.080
TSS	.20	.10
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.016	0.008
TSS	.020	.010
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 175,000 lb/day or less of milk equivalent (less than 18,180 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.250	0.125
TSS	.313	.156
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.025	0.013
TSS	.031	.016
pH	Within the range 6.0 to 9.0.	

§ 405.44 [Reserved]

§ 405.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.160	0.080
TSS	.20	.10
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.016	0.008
TSS	.020	.010
pH	Within the range 6.0 to 9.0.	

§ 405.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the butter subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters) shall be the standard set forth in Part 128 of this chapter except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart E—Cottage Cheese and Cultured Cream Cheese Subcategory

§ 405.50 Applicability; description of the cottage cheese and cultured cream cheese subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of cottage cheese and cultured cream cheese.

§ 405.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such

fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants processing more than 25,000 lb/day of milk equivalent (more than 2,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	6.70	2.680
TSS	10.050	4.020
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.670	0.268
TSS	1.005	.402
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 25,000 lb/day or less of milk equivalent (less than 2,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	8.926	4.463
TSS	13.388	6.694
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.893	0.446
TSS	1.339	.669
pH	Within the range 6.0 to 9.0.	

§ 405.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants processing more than 25,000 lb/day of milk equivalent (more than 2,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	1.480	0.740
TSS	1.850	.925
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.148	0.074
TSS	.185	.093
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 25,000 lb/day or less of milk equivalent (less than 2,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	2.226	1.113
TSS	2.782	1.391
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.223	0.111
TSS	.278	.139
pH	Within the range 6.0 to 9.0.	

§ 405.54 [Reserved]

§ 405.55 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	1.480	0.740
TSS	1.850	.925
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.148	0.074
TSS	.185	.093
pH	Within the range 6-0 to 9.0.	

§ 405.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the cottage cheese and cultured cream cheese subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart F—Natural and Processed Cheese Subcategory

§ 405.60 Applicability; description of the natural and processed cheese subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of natural cheese (hard curd) and processed cheese.

§ 405.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter, shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors

are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants processing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	0.715	0.290
TSS	1.088	.435
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.073	0.029
TSS	.109	.044
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 100,000 lb/day or less of milk equivalent (less than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	0.976	0.488
TSS	1.462	.731
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.098	0.049
TSS	.146	.073
pH	Within the range 6.0 to 9.0.	

§ 405.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants processing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	0.160	0.080
TSS	.20	.10
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.016	0.008
TSS	.020	.010
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 100,000 lb/day or less of milk equivalent (less than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	0.250	0.125
TSS	.312	.156
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.025	0.013
TSS	.031	.016
pH	Within the range 6.0 to 9.0.	

§ 405.64 [Reserved]

§ 405.65 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	0.160	0.080
TSS	.20	.10
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.016	0.008
TSS	.020	.010
pH	Within the range 6.0 to 9.0.	

§ 405.66 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the natural and processed cheese subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter except for § 128.133 of this chapter subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart G—Fluid Mix for Ice Cream and Other Frozen Desserts Subcategory

§ 405.70 Applicability; description of the fluid mix for ice cream and other frozen desserts subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of fluid mixes for ice cream and other frozen desserts for later freezing in other plants; it does not include freezing of the products as one of the affected operations.

§ 405.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit

either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants with a dairy products input of more than 85,000 lb/day of milk equivalent (more than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	2.20	0.880
TSS	2.640	1.320
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.220	0.088
TSS	.264	.132
pH	Within the range 6.0 to 9.0.	

(b) For plants with a dairy products input of 85,000 lb/day or less of milk equivalent (less than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	2.926	1.463
TSS	4.388	2.194
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.293	0.146
TSS	.439	.219
pH	Within the range 6.0 to 9.0.	

§ 405.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants with a dairy products input of more than 85,000 lb/day of milk equivalent (more than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.480	0.240
TSS	.60	.30
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.048	0.024
TSS	.060	.030
pH	Within the range 6.0 to 9.0.	

(b) For plants with a dairy products input of 85,000 lb/day or less of milk equivalent (less than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.726	0.363
TSS	.906	.454
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input	
BOD5	0.073	0.036
TSS	.091	.045
pH	Within the range 6.0 to 9.0.	

§ 405.74 [Reserved]

§ 405.75 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.480	0.240
TSS	.60	.30
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.048	0.024
TSS	.060	.030
pH	Within the range 6.0 to 9.0.	

§ 405.76 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the fluid mix for ice cream and other frozen desserts subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart H—Ice Cream, Frozen Desserts, Novelties and Other Dairy Desserts Subcategory

§ 405.80 Applicability; description of the ice cream, frozen desserts, novelties and other dairy desserts subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of ice cream, ice milk, sherbert, water ices, stick confections, frozen novelties products, frozen desserts, melorine, pudding and other dairy product base desserts. If fluid mixes prepared at another plant are employed, the appropriate values from Subpart G should be deducted from the limitations.

§ 405.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter, shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will

make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants with a dairy products input of more than 85,000 lb/day of milk equivalent (more than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	4.60	1.840
TSS	6.90	2.760
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.460	0.184
TSS	.690	.276
pH	Within the range 6.0 to 9.0.	

(b) For plants with a dairy products input of 85,000 lb/day or less of milk equivalent (less than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	6.126	3.063
TSS	9.188	4.594
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.613	0.306
TSS	.919	.459
pH	Within the range 6.0 to 9.0.	

§ 405.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants with a dairy products input of more than 85,000 lb/day of milk equivalent (more than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.940	0.470
TSS	1.175	.588
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.094	0.047
TSS	.118	.059
pH	Within the range 6.0 to 9.0.	

(b) For plants with a dairy products input of 85,000 lb/day or less of milk equivalent (less than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.40	0.70
TSS	1.750	.875
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.140	0.070
TSS	.175	.088
pH	Within the range 6.0 to 9.0.	

§ 405.84 [Reserved]

§ 405.85 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.940	0.470
TSS	1.175	.588
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.094	0.047
TSS	.118	.059
pH	Within the range 6.0 to 9.0.	

§ 405.86 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the manufacture of ice cream, frozen desserts, novelties and other dairy desserts subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart I—Condensed Milk Subcategory

§ 405.90 Applicability; description of the condensed milk subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of condensed whole milk, condensed skim milk, sweetened condensed milk and condensed buttermilk.

§ 405.91 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the De-

velopment Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants condensing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	3.450	1.380
TSS	5.175	2.070
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.345	0.138
TSS	.518	.207
pH	Within the range 6.0 to 9.0.	

(b) For plants condensing 100,000 lb/day or less of milk equivalent (less than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	4.60	2.30
TSS	6.90	3.450
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.460	0.184
TSS	.690	.276
pH	Within the range 6.0 to 9.0.	

(c) For plants in the size range covered by paragraph (b) once-through barometric condenser water may be discharged untreated if the composite net entrainment is below 15 mg/l of BOD5 for any one day and below 10 mg/l of BOD5 as the average for thirty consecutive days.

§ 405.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants condensing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.760	0.380
TSS	.950	.475
pH	Within the range 6.0 to 9.0	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.076	0.038
TSS	.095	.048
pH	Within the range 6.0 to 9.0.	

(b) For plants condensing 100,000 lb/day or less of milk equivalent (less than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.150	0.575
TSS	1.438	.719
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.115	0.058
TSS	.144	.072
pH	Within the range 6.0 to 9.0.	

§ 405.94 [Reserved]

§ 405.95 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) For plants condensing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.760	0.380
TSS	.950	.475
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.076	0.038
TSS	.095	.048
pH	Within the range 6.0 to 9.0.	

§ 405.96 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the condensed milk subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart J—Dry Milk Subcategory

§ 405.100 Applicability; description of the dry milk subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of dry whole milk, dry skim milk and dry buttermilk.

§ 405.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analysis or generally accepted published values.

§ 405.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not

fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitatons establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For milk drying plants with an input equivalent to more than 145,000 lb/day of milk equivalent (more than 15,070 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.625	0.650
TSS	2.438	.975
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.163	0.065
TSS	.244	.098
pH	Within the range 6.0 to 9.0.	

(b) For milk drying plants with an input equivalent to 145,000 lb/day or less of milk equivalent (less than 15,070 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	2.176	1.088
TSS	3.276	1.638
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.218	0.109
TSS	.328	.164
pH	Within the range 6.0 to 9.0.	

§ 405.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For milk drying plants with an input equivalent to more than 145,000 lb/day of milk equivalent (more than 15,070 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.360	0.180
TSS	.450	.225
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.036	0.018
TSS	.045	.023
pH	Within the range 6.0 to 9.0.	

(b) For milk drying plants with an input equivalent to 145,000 lb/day or less of milk equivalent (less than 15,070 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.550	0.275
TSS	.688	.344
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.055	0.028
TSS	.069	.034
pH	Within the range 6.0 to 9.0.	

§ 405.104 [Reserved]

§ 405.105 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input	
BOD5	0.036	0.180
TSS	.450	.225
pH	Within the range 6.0 to 9.0	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.036	0.018
TSS	.045	.023
pH	Within the range 6.0 to 9.0.	

§ 405.106 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the dry milk subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart K—Condensed Whey Subcategory

§ 405.110 Applicability; description of the condensed whey subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of condensed sweet whey and condensed acid whey.

§ 405.111 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If

such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For whey condensing plants with over 300,000 lb/day of fluid raw whey input (over 20,700 lb/day of solids or 14,160 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.00	0.400
TSS	1.50	.600
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.100	0.040
TSS	.150	.060
pH	Within the range 6.0 to 9.0.	

(b) For whey condensing plants with 300,000 lb/day or less of raw fluid whey input (less than 20,700 lb/day of solids or 14,160 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.30	0.650
TSS	1.950	.975
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.130	0.065
TSS	.195	.098
pH	Within the range 6.0 to 9.0.	

(c) For plants in the size range covered in paragraph (b) once-through barometric condenser water may be discharged untreated if the composite net entrainment is below 15 mg/1 of BOD5 for any one day and below 10 mg/1 of BOD5 as the average for thirty consecutive days.

§ 405.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For whey condensing plants with more than 300,000 lb/day of raw fluid whey input (more than 20,700 lb/day of solids or 14,160 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.220	0.110
TSS	.276	.138
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.022	0.011
TSS	.028	.014
pH	Within the range 6.0 to 9.0.	

(b) For whey condensing plants with 300,00 lb/day or less of raw fluid whey input (less than 20,700 lb/day of solids or 14,160 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.326	0.163
TSS	.408	.204
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.033	0.016
TSS	.041	.020
pH	Within the range 6.0 to 9.0.	

§ 405.114 [Reserved]

§ 405.115 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.220	0.110
TSS	.276	.138
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.022	0.011
TSS	.028	.014
pH	Within the range 6.0 to 9.0.	

§ 405.116 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the condensed whey subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart L—Dry Whey Subcategory

§ 405.120 Applicability; description of the dry whey subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of sweet or acid dry whey.

§ 405.121 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw

materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For whey drying plants with an input equivalent to more than 57,000 lb/day of 40 percent solids whey (22,800 lb/day of solids or 15,620 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.00	0.400
TSS	1.50	.600
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.100	0.040
TSS	.150	.060
pH	Within the range 6.0 to 9.0.	

(b) For whey drying plants with an input equivalent to 57,000 lb/day or less of 40 percent solids whey (under 22,800 lb/day solids or 15,620 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.30	0.650
TSS	1.95	.975
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.130	0.065
TSS	.195	.098
pH	Within the range 6.0 to 9.0.	

§ 405.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For whey drying plants with an input equivalent to more than 57,000 lb/day of 40 percent solids whey (22,800 lb/day of solids or 15,620 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.220	0.110
TSS	.275	.138
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.022	0.011
TSS	.028	.014
pH	Within the range 6.0 to 9.0.	

(b) For whey drying plants with an input equivalent to 57,000 lb/day or less of 40 percent solids whey (under 22,800 lb/day solids or 15,620 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.326	0.163
TSS	.408	.204
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.033	0.016
TSS	.041	.020
pH	Within the range 6.0 to 9.0.	

§ 405.124 [Reserved]

§ 405.125 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.220	0.110
TSS	.275	.138
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.022	0.011
TSS	.028	.014
pH	Within the range 6.0 to 9.0.	

§ 405.126 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the dry whey subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128, of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions.

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 405]

DAIRY PRODUCTS PROCESSING INDUSTRY POINT SOURCE CATEGORY

Proposed Application of Effluent Limitations Guidelines for Existing Sources of Pretreatment Standards for Incompatible Pollutants

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act) 33 U.S.C. 1251, 1311, 1314 and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92-500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 405—Dairy Products Processing Industry Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the receiving stations, the fluid products, the cultured products, the butter, the cottage cheese and cultured cream cheese, the natural and processed cheese, the fluid mix for ice cream and other frozen desserts, the ice cream, frozen desserts, novelties and other dairy desserts, the condensed milk, the dry milk, the condensed whey and the dry whey subcategories of the dairy products processing industry point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 405) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "Compatible" and "Incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants). Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

> In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307 (c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Act: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutants: *And provided further*, That when the effluent limitations guidelines for each industry is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitation guidelines is adequate to support a determination of the applicability of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 405.15, 405.25, 405.35, 405.45, 405.55, 405.65, 405.75, 405.85, 405.95, 405.105, 405.115, and 405.125, of the proposed regulation for point sources within the dairy products processing industry category (December 20, 1973; 38 FR 34954), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains §§ 405.16, 405.26, 405.36, 405.46, 405.56, 405.66, 405.76, 405.86, 405.96, 405.106, 405.116, and 405.126, which state the applicability of standards of performance for purposes of pretreatment standards for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Dairy Products Processing Industry Point Source Category" is now being published. The economic analysis report entitled "Economic Analysis of Proposed Effluent Guidelines for the Dairy Processing Industry" (November 1973) was made available at the time of proposal. Copies of the preliminary Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public (38 FR 15653). The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of this material, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from the processing of dairy products, the characteristics of these pollutants, and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated

cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of dairy products. The two reports exceed, in the aggregate, 200 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the dairy products processing industry category (38 FR 34954; December 20, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 405) which currently is being published part of the Part III of this issue.

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the dairy products processing industry category, the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As fully described in the Development Document, the process waste waters in all of the subcategories contain similar types and amounts of constituents. These constituents are organics, solids, and inorganics including nutrients, and they are all treatable by biological treatment methods. In the opinion of EPA, suitable design and capacity can be provided for a publicly owned treatment works to account for these discharges. Accordingly, the first option should be applicable and the guidelines should not apply to operations in the subcategories of the dairy products processing industry which discharge to publicly owned treatment works. However, it should be noted that difficulty may be experienced in maintaining normal treatment efficiencies without special operational procedures when the BOD_5 contribution attributable to whey exceeds 10 percent of the total treatment plant load. This is especially true when there is not sufficient equalization present to prevent shock loading. Thus, it may be that there are situations where whey may not be a compatible pollutant depending on the relative quality and quantity of influent to the municipal system and the design and operating characteristics of the publicly owned treatment works. Public comment is solicited on this matter.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center. Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304 and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR 405 be amended to add §§ 405.14, 405.24, 405.34, 405.44, 405.54, 405.64, 405.74, 405.84, 405.94, 405.104, 405.114, and 405.124. All comments received on or before June 27, 1974 will be considered.

Dated: May 15, 1974.

JOHN QUARLES,
Acting Administrator.

Part 405 is proposed to be amended as follows:

Subpart A is amended by adding § 405.14 as follows:

§ 405.14 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.12 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart B is amended by adding § 405.24 as follows:

§ 405.24 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.22 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart C is amended by adding § 405.34 as follows:

§ 405.34 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.32 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart D is amended by adding § 405.44 as follows:

§ 405.44 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.42 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart E is amended by adding § 405.54 as follows:

§ 405.54 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.52 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart F is amended by adding § 405.64 as follows:

§ 405.64 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.62 above shall not apply and, subject to the provisions of Part 128 of this Chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart G is amended by adding § 405.74 as follows:

§ 405.74 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.72 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart H is amended by adding § 405.84 as follows:

§ 405.84 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.82 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart I is amended by adding § 405.94 as follows:

§ 405.94 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.92 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart J is amended by adding § 405.-104 as follows:

§ 405.104 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.102 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart K is amended by adding § 405.114 as follows:

§ 405.114 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.112 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart L is amended by adding § 405.124 as follows:

§ 405.124 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.122 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

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